

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

STAR CREATIONS, INC.,)	
an Illinois corporation,)	
)	
Plaintiff,)	
)	
v.)	Case No. 09-CV-07071
)	
RONALD CHEN, individually, and)	
RC CREATIVE CO., LTD.,)	Judge William T. Hart
)	
Defendants.)	

PLAINTIFF’S MOTION FOR ENTRY OF JUDGMENT

NOW COMES the Plaintiff, STAR CREATIONS, INC. (“Plaintiff”), by and through its attorneys and for its Motion For Entry of Judgment, states as follows:

1. On or about November 19, 2009, the Plaintiff filed its Complaint against Ronald Chen, d/b/a RC Creative Co., Ltd. (“Defendants”).
2. Thereafter, on or about May 11, 2010, Plaintiff filed a First Amended Complaint.
3. On or about December 17, 2010, the Plaintiff served upon the Defendants Plaintiff’s First Set of Interrogatories and Request to Produce Documents.
4. Defendant failed to answer the Plaintiff’s discovery. After approximately 4 months, Plaintiff on or about April 18, 2011, filed its Motion to Compel Discovery Pursuant to F.R.C.P. 37.
5. The Plaintiff appeared on its Motion to Compel answers to the outstanding discovery on April 21, 2011. The Defendants failed to appear in person or through their counsel.
6. On April 21, 2011 this Honorable Court granted Plaintiff’s Motion to Compel. The Court struck the Defendants’ Answer and Counterclaim and held the Defendants in default. The Court, however, permitted the Defendants to respond to all outstanding discovery up to and

including May 12, 2011. If the Defendants answered discovery on or before May 12, 2011 the Court ordered that the Defendant file a Motion to Vacate the Order of Default to reinstate Defendants' Answer and Counterclaim.

7. As of the filing of this Motion for Entry of Judgment, the Defendants have neither served answers to outstanding discovery upon the Plaintiff and have not filed any other pleading , including any motion to vacate with the clerk of court.

8. In Plaintiff's Amended Complaint, the Plaintiff pleads 3 counts. Count I for Breach of Contract; Count II for Breach of Agency; and Count III for Fraud and Misrepresentation.

9. The causes of action arise out of the Plaintiff and Defendants entering into an agreement wherein the Defendants agreed to act as the sourcing agent for Plaintiff. As such, Defendants agreed to obtain canvas, glass and other material in China for Plaintiff.

10. First, as to the canvas orders placed by Plaintiff, the factory charged a certain price and pursuant to the agreement between Plaintiff and Defendants the Plaintiff was to pay that price. The Plaintiff would then pay a commission to the Defendants of five percent (5%) on all products sourced by the Defendants, with the exception of glass.

11. The Defendants in fact charged Plaintiff the cost of production, i.e. what the factory charged the Defendants, however in addition a review of the invoices reveals that the Defendants charged Plaintiff an additional \$74,622.00 above and beyond the actual price charged by the factory. In addition, the Defendants charged the Plaintiff setup fees and sample charges that were purportedly charged by the factories. These fees were passed on to the Plaintiff and Plaintiff paid the setup and sample fees in the sum of \$15,500.00

12. However, Plaintiff, unbeknownst to the Defendants later visited the factories in

Southern China and learned that Defendants were charging Plaintiff in excess of the agreement. Simply stated, the Plaintiff learned firsthand that the setup fees and sample fees were non-existent and fictitious.

13. In addition, the Defendants promised to obtain the best price for glass to be used in Plaintiff's business, Defendants in fact obtained the best price for glass at eleven cents (11¢) per square foot. However, even though the best price was obtained by the Defendants, the Defendants unbeknownst to Plaintiff charged the Plaintiff fourteen cents (14¢) per square foot.

14. In addition, the Defendants charged their five percent (5%) commission on the wrongful fees set out hereinabove. The overcharge of the glass, the Defendants overcharge of canvas and the Defendant charging false setup and sample fees means Plaintiff paid Defendants \$105,122.00 more than Plaintiff should have. In addition, the Defendants charged their five percent commission on these fees or the sum of \$5,256.10. Thus, taking into consideration the four line items, the overcharge of the commission in the sum of \$5,256.10, the wrongful setup and sample fees of \$15,500.00, the overcharge of glass in the sum of \$15,000.00 and finally the canvas orders in the amount of \$74,620.00, the Plaintiff has been damaged in the sum of \$110,383.00.

15. In addition, the Plaintiff has also filed claims against the Defendants for breach of fiduciary duty, breach of agency and fraud. The Plaintiffs seek to recover their attorney's fees as a punitive measure against the Defendants pursuant to both Counts II and III.

16. Illinois courts in fraud cases allow for punitive damages if a plaintiff demonstrates a breach of trust. *AMPAT/Midwest v. Illinois Tool Works, Inc.*, 896 F.2 1035,1043 (7th Cir. 1990). The Plaintiff filed a claim in Count II for Breach of Agency, i.e. breach of his fiduciary duty to Plaintiff and therefore Defendants breached their "trust" to Plaintiff. Attorney's fees that a party

incurred may be considered in an award of punitive damages. *In Re: Sumpter*, 171 B.R. 835 (N.D. ILL. 1994). The Plaintiff has incurred attorney's fees in this cause in the sum of \$17,761.53. Thus, the Plaintiff seeks an award of \$17,761.53 in punitive damages.

17. By this motion, Plaintiff seeks the entry of judgment as against the Defendants in the sum of \$128,144.53.

18. The motion is supported by the affidavit of Plaintiff.

WHEREFORE, the Plaintiff, STAR CREATIONS, INC., prays this Honorable Court enter a judgment in its favor in the sum of \$128,144.53 as against the Defendants, RC CREATIVE CO., LTD. and RONALD CHEN, jointly and severally, and for any other relief this Court deems just and fit.

Respectfully submitted,

STAR CREATIONS, INC.

By: /s/ Elliot S. Wiczer

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